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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 CHARLES ALLEN EMLEY,)

9 Petitioner,)

10 v.)

11 STEVEN SINCLAIR,)

12 Respondent.)


CASE NO. C08-1292-RAJ-BAT

ORDER DISMISSING § 2254
PETITION WITHOUT PREJUDICE

13 The Court, having reviewed the petition for writ of habeas corpus, the Report and
14 Recommendation of Brian A. Tsuchida, United States Magistrate Judge, and the remaining record,
15 does hereby find and Order:

- 16 (1) The Court adopts the Report and Recommendation.
17 (2) Petitioner's federal habeas petition is DISMISSED, without prejudice, for failure to
18 exhaust available state court remedies.
19 (3) The Clerk is directed to send copies of this Order to petitioner and to Judge Tsuchida.

20 DATED this 16th day of January, 2009.

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23 The Honorable Richard A. Jones
24 United States District Judge
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